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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/849,400 05/07/01 LIN

A 012694/P6682

EXAMINER
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HM12/1029

OFFICE OF THE STAFF JUDGE ADVOCATE  
U.S. ARMY MEDICAL RESEARCH AND MATERIEL  
ATTN: MCMR-JA (MS. ELIZABETH ARWINE)  
504 SCOTT STREET  
FORT DETRICK MD 21702-5012

PATEL, S	
ART UNIT	PAPER NUMBER

1624

DATE MAILED:

10/29/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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# Office Action Summary

Application No.

09/849,400

Applicant(s)

Al J. Lin et al.

Examiner

Sudhaker Pat I

Art Unit

1624



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on Jul 3, 2001

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 1-31 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☒ Claims 1-31 are subject to restriction and/or election requirements.

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some\* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

20) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Election/Restriction*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims(in part) 1-31, drawn to compounds, a simple composition, and the first recited method of use of Formula of claim 1 wherein X = alkyl or ethyl; Y = non-heterocycle, classified in class 546, subclasses various depending nature of substituents.
  - II. Claims(in part) 1-31, drawn to compounds, a simple composition, and the first recited method of use of Formula of claim 1 wherein X = alkyl or ethyl; Y = heterocycle, classified in various classes, subclasses various depending on the nature of Y and other substituents. If this group is elected further restriction/election will be required.
  - III. Claims(in part) 1-31, drawn to compounds, a simple composition, and the first recited method of use of Formula of claim 1 wherein X = S, classified in class 544, subclasses various depending on the nature of Y and other substituents. If this group is elected further restriction/election will be required.
  - IV. Claims(in part) 1-31, drawn to compounds, complex compositions, and methods not included in above groups. If this groups is elected further restriction/election will be required.

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Applicants are required to elect one of the above groups and a single species with exact and specific values for the variables in reply to this office action.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I-IV are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case verapamil &/or phenothiazine can also be used in a similar way as cited herein..

3. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Groups II-IV, restriction for examination purposes as indicated is proper.

4. A telephone call was made to Ms. S. K. Sundby on 10/17/01 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any

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amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sudhaker Patel, D.Sc. Tech. whose telephone number is (703) 308 4709.

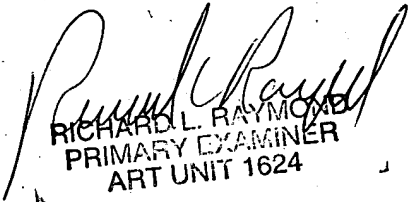
The examiner can normally be reached on Monday thru' Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by the phone are unsuccessful, the examiner's supervisor, Dr. Mukund Shah can be reached at (703) 308 4716.

A facsimile center has been established for Group 1600. The hours of operation Monday through Friday, 8:45 AM to 4:45 PM. The telecopier numbers for accessing the facsimile machine are (703) 308-4556 or (703) 305-3592.

Any inquiry of general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308 1235.

Sp. 

October 25, 2001

  
RICHARD L. RAYMOND  
PRIMARY EXAMINER  
ART UNIT 1624